

Sixth Appellate District

San Jose, California

MONDAY, NOVEMBER 10, 2008

The following case is submitted this date:  
H033433 A.C., et al. v. SUPERIOR COURT

H033256 E. S. v. SUPERIOR COURT; SANTA CLARA COUNTY DEPARTMENT  
OF FAMILY AND CHILDREN'S SERVICES

The petition for writ of mandate is denied. This opinion is final as to this court immediately upon filing. (Cal. Rules of Court, rule 8.264(b)(2).) (not published)  
(Premo, J.; We concur: Rushing, P.J., Elia, J.)  
Filed November 10, 2008

H031106 PEOPLE v. DALE THOMAS ANDERSON

Respondent has requested that our opinion, filed October 15, 2008, be certified for partial publication (as to pt. III of the Discussion). It appearing that a portion of our opinion meets the standards set forth in California Rules of Court, rule 8.1105(c)(2), therefore, the motion for partial publication is GRANTED. The opinion is ordered published in the Official Reports with the exception of the following: Factual Background, Part I (Prosecution Evidence) and Part II (Defense Witnesses); Discussion, Part I (Issues on Appeal), and Part II (Claim of Prosecutorial Error).  
(Duffy, J., Mihara, Acting P.J., McAdams, J.)  
Filed November 10, 2008

WEDNESDAY, NOVEMBER 12, 2008

H032202 PEOPLE v. COLIN

The judgment is modified to reduce both the restitution fine (§ 1202.4, subd. (b)) and the parole revocation fine (§ 1202.45) to \$200. As modified, the judgment is affirmed. (not published)  
(Elia, J.; We concur: Rushing, P.J., Premo, J.)  
Filed November 12, 2008

THURSDAY, NOVEMBER 13, 2008

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, J.; Rushing, P.J.; Duffy, J.; and LaNae Brooks, Deputy Clerk.

H032621 PEOPLE v. LEWIS

Cause called and argued by Paul Couenhoven appearing for Appellant and by Christopher W. Grove, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, November 13, 2008 (continued)

H032201 ARCADIA DEVELOPMENT COMPANY v. CITY OF MORGAN HILL, et al.

Cause called and argued by John D. Hoffman appearing for Appellant and by Ellison Folk appearing for Respondents. Cause ordered submitted.

H031729 PEOPLE v. CONNELLY

Cause called and argued by Rachel Lederman appearing for Appellant and by Christopher W. Grove, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H031451 PAIVA v. NICHOLS, et al.

Cause called and argued by Mark G. Bonino and Michael C. Douglas and Daniel W. Hager appearing for Appellants and by Brian O'Grady appearing for Respondent. Cause ordered submitted.

H031816 BENEFIELD, et al. v. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

Cause called and argued by Stephen A. Jennings appearing for Appellant and by Barry J. Bennett appearing for Respondents. Cause ordered submitted.

Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; Duffy, J.; and W. Magsaysay, Deputy Clerk.

H031108 SHAW, et al. v. COUNTY OF SANTA CRUZ, et al.

Cause called and argued by Ronald A. Zumbrun appearing for Appellants and by Jason M. Heath, Deputy County Counsel, appearing for Respondents. Cause ordered submitted. Duffy, J., then leaves the bench, and McAdams, J., joins the panel.

H032419 IN RE JOSE COBOS ON HABEAS CORPUS

Cause called and argued by Scott C. Mather, Deputy Attorney General, appearing for Appellant and by Keith A. Wattley appearing for Respondent. Cause ordered submitted. Bamattre-Manoukian, Acting P.J., then leaves the bench, and Duffy, re-joins the panel.

H031694 PEOPLE v. BARAJAS

Cause called and argued by Jonathan Grossman appearing for Appellant and by Rene A. Chacon, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, November 13, 2008 (continued)

H032709 PEOPLE v. BATINICH

Cause called and argued by Cindy A. Diamond appearing for Appellant and by Ronald E. Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Court adjourns.

H031356 PEOPLE v. AIRY

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)  
Filed November 13, 2008

H032852 PEOPLE v. SALCIDO

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed November 13, 2008

H032118 PEOPLE v. SMITH

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed November 13, 2008

H031910 PEOPLE v. ORTIZ

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed November 13, 2008

The following case is submitted this date:

H031395 HUYNH on Habeas Corpus

Sixth Appellate District

San Jose, California

FRIDAY, NOVEMBER 14, 2008

H031419 PEOPLE v. SALINAS, et al.

The judgment as to Madril is ordered modified by staying the sentence imposed on count 4, the vehicle theft count. As so modified, the judgment as to Madril is affirmed. The judgment as to Salinas is ordered modified to reflect that the court sentenced defendant to the indeterminate term of 55 years to life consecutive to the determinate term of 22 years to life, and is further ordered modified by staying the sentence imposed on count 4, the vehicle theft count. The determinate term consists of six years (double the midterm) on count 2; 10 years for the Penal Code Section 186.22, subdivision (b)(1) enhancement; one year for the section 12022, subdivision (b)(1) enhancement, and five years for the section 667, subdivision (a) enhancement. Terms for both counts 3 and 4 are stayed. As so modified, the judgment as to Salinas is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Elia, Acting P.J., Duffy, J.)  
Filed November 14, 2008

H032607 PEOPLE v. TORRES

The abstract of judgment is amended to state that the penalty assessment in case No. CC756869 is \$980. As so modified, the judgment is affirmed. The clerk of the superior court shall modify the abstract of judgment as ordered herein and forward a copy of the modified abstract of judgment to the Department of Corrections and Rehabilitation. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed November 14, 2008

H032743 HERNANDEZ v. SUPERIOR COURT OF SANTA CLARA COUNTY; THE PEOPLE

Let a peremptory writ of prohibition issue restraining respondent court from taking any further action against Hernandez based upon the information in the above-entitled action, other than vacating its March 7, 2008 order denying Hernandez's Penal Code section 995 motion to set aside the information and entering a new order granting such motion. This opinion is made final as to this court seven days from the date of filing. (Cal. Rules of Court, rule 8.264(b)(3).) The temporary stay order shall remain in effect until finality of this decision. (not published)

(Mihara, J.; We concur: Rushing, P.J., McAdams, J.)

Filed November 14, 2008

Sixth Appellate District

San Jose, California

Friday, November 14, 2008 (continued)

H032732 AMAYA v. SUPERIOR COURT OF SANTA CLARA COUNTY; THE  
PEOPLE

Let a peremptory writ of mandate issue directing the  
Superior Court of Santa Clara County to vacate its order granting  
the People's motion to vacate Amaya's plea and admission, and  
enter a new order denying that motion and reinstating Amaya's  
plea and admission. (not published)

(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed November 14, 2008